

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

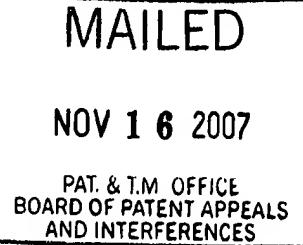
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Ex parte: TIM KING, ALAN SLATER, VICTOR FORMAN,  
and TIM WAGGONER

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Application 09/801,725

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on October 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

**EXAMINER'S ANSWER**

**NEW GROUND OF REJECTION**

On July 25, 2005, an Examiner's Answer was mailed. The Examiner's Answer included a new ground of rejection, where Claims 8 and 10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

When a new ground of rejection is introduced in the Examiner's Answer, the Examiner is required to obtain approval of the Technology Center Director or his/her designee. Further, any new ground of rejection is required to be prominently identified, eg., a separate heading with all capitalized letters. See MPEP § 1207.02(A)(6)(d).

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to vacate the Examiner's Answer mailed July 25, 2005;
- 2) mail a Supplemental Examiner's Answer with the approval of the Technology Center Director or designee; and
- 3) for such further action as may be deemed appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

*Patrick J. Nolan*  
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PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571)272-9797

PJN/pgc

cc: PITNEY BOWES INC.  
35 WATERVIEW DRIVE  
P.O. BOX 3000  
MSC 26-22  
SHELTON CT 06484-8000